IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.795 of 2006

Kavitha ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-9. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records leading to the detention of petitioner's mother by name Muniammal, under Act 14/1982, vide detention order No.194/2006, dated 24.07.2006 on the file of the second respondent herein, quash the same as illegal and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and set her at liberty.

For Petitioner : Mrs. R. Subadra Devi

For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P. SATHASIVAM, J.)

The petitioner, who is the daughter of the detenue by name Muniammal, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video

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Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 24.07.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner, by drawing our attention to the First Information Report, which is available at page 31 of the paper book supplied to the detenu, has submitted that though a case was registered on 17.07.2006 at 09.30 hours in Crime No.34/2006 for the offences under Sections 4(1)(i) and 4(1)(aaa) read with 4(1-A) of TNP Act on the file of Sub Inspector of Police, Prohibition Enforcement Wing (South), Guindy Unit, Chennai, in the arrest memo, even before registration of the case at 09.30 hours itself the crime number was assigned. There is no explanation how the crime No.34/2006 was mentioned in the arrest memo, which was prepared at 09.30 hours on 17.07.2006. In the absence of proper explanation by the person concerned, we are of the view that such reference made in the arrest memo vitiates the detention order on the ground of non application of mind. On this ground, the detention order is liable to be quashed and accordingly, the same is quashed.

4. The Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.
2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-9.
3. The Superintendent, Special Prison for Women, Vellore.
(In duplicate for communication to detenue)
4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

HCP. No.795 of 2006

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